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E.O. 12958: DECL: 03/30/2016
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SUBJECT: JCCT: COMMERCE SECRETARY GUTIERREZ'S MEETING WITH
VICE PREMIER WU YI, MARCH 28, 2006

Classified By: Deputy Chief of Mission David Sedney, Reasons 1.4 (B) and (D)

(U) Summary

1. (C) On March 28, 2006 Vice Premier Wu Yi and Commerce Secretary Carlos Gutierrez met to discuss the seventeenth

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meeting of the Joint Commission on Commerce and Trade (JCCT) scheduled for April 11, 2006. While press representatives remained in the room, VP Wu Yi asked the Secretary whether in light of his published views in the United States, he felt the JCCT should be held as scheduled. While the press was still in the room, the Secretary noted that Commerce Minister Bo Xilai and Vice Minister Ma Xiuhong had spent some of the day convincing him that the United States and China will have a successful JCCT. After the press had departed, the Secretary stated the importance of a good JCCT to the visit

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of President Hu Jintao. He told Wu Yi that at a meeting with Minister Bo earlier in the day, the two sides agreed to meet again before April 11 to clarify exactly what would be discussed at the JCCT meeting. VP Wu Yi provided a list of actions China has taken or will soon take with regard to the protection of intellectual property and highlighted the USD13-15 billion in purchases by Chinese buying missions planned in conjunction with the JCCT. She also listed states that would be visited by members of the JCCT delegation, starting in Hawaii and including planned stops in California, Tennessee, Georgia, Illinois, South Carolina, New York, Minnesota, Washington and D.C. VP Wu Yi ended the meeting saying, "What you hear at the JCCT will satisfy you." (Note: Beef was not raised during the meeting. Also, VP Wu Yi and Secretary Gutierrez met one-on-one for forty minutes before

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convening the larger group meeting. End Note.)

(SBU) Press Comments

¶2. (C) Vice Premier Wu Yi opened the meeting by noting that the major purpose of the meeting is to discuss the seventeenth meeting of the Joint Commission on Commerce on Trade (JCCT). Referring to published comments in the United States, VP Wu gave Commerce Secretary Gutierrez the floor to give his view on whether the two sides should hold the JCCT on April 11, 2006 as scheduled. (Note: Members of the Press were in the room. End Note.)

¶3. (C) In a good meeting earlier that day, Commerce Minister Bo Xilai and Commerce Vice Minister Ma Xiuhong were convincing me that we should have a successful JCCT, responded Secretary Gutierrez. (Note: Press departed the room. End Note.) But the USG was concerned after the November meeting of our Presidents that it was not as substantive as it could have been. It is important for the meeting between our leaders in Washington that the two sides are able to guarantee there will be good news for them. The U.S. side has provided a comprehensive list of items for the JCCT to both VM Ma and Minister Bo and also conveyed a list of core items. (Note: This list of core items was conveyed orally by Commerce Under-Secretary Lavin and Deputy USTR Bhatia to Commerce Vice Minister Ma during discussions March ¶23. End Note.) At the meeting with Minister Bo today, continued Secretary Gutierrez, both sides agreed to follow up again before the JCCT meeting to ensure that there is clarity about what will happen at the meeting. It is a sensitive time in Washington with respect to U.S.-China bilateral relations, and if the mood of the JCCT is very bad, it will not be good for the leaders, meeting in Washington.

¶4. (C) The Government of China attaches great importance to the seventeenth JCCT and is making great effort at all levels to ensure that it is successful, stated VP Wu Yi. The leadership fully understands the difficult environment around the congressional mid-term elections in the United States. The April 11, 2006 date for the JCCT was the United State,s suggestion. China agreed to that date with the full understanding that it might be difficult. China believes that the two sides can work together to assure the success of

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the seventeenth JCCT.

(U) IP Actions: Wu Yi,s 14-Point List

¶5. (SBU) VP Wu Yi provided a brief update on the major actions China had taken or would soon take with regard to the protection of intellectual property:

(a) Supreme People,s Court (SPC) is establishing special IPR trial courts throughout China to streamline the handling of IP cases and publicize decisions;

(b) In January 2006, for the purpose of facilitating cooperation on IP, and especially to help advise small and medium sized enterprises on how to protect their rights in China, the Chinese Government established its first-ever overseas IPR Ombudsman in the Chinese Embassy in Washington;

(c) Over the next three years, China will establish fifty IPR complaint and incident reporting centers in fifty cities throughout China;

(d) In 2006, China published an action plan for IP protection including plans to revise seventeen laws and regulations, issue six new judicial interpretations and steps for increased legal enforcement;

(e) As reported at a press conference in Beijing on March 27, 2006, Ministry of Commerce (MOFCOM), Ministry of Public Security (MPS), State Administration for Industry and Commerce (SAIC), China Customs and the Supreme People,s Court (SPC) will jointly issue regulations on accelerating the transfer of administrative IP cases to criminal courts;

(f) The SPC and Supreme People's Procuratorate jointly issued a reply explaining procedures for handling sound and audio-visual recording infringement cases including clear information on sentencing requirements;

(g) SPC will issue four new judicial interpretations regarding IP cases; the four JIs are now available for comment;

(h) MOFCOM and other relevant agencies have issued regulations on protection IP at trade fairs and exhibitions and will initiate a one-year blue-sky special operation;

(i) To further increase transparency, the SPC will make IP case decisions available on its website and courts will establish offices to answer questions, publicize decisions on websites and make them available in public reference rooms;

(j) Currently at the comment stage, the Ministry of Informatization Industry (MII) and the National Copyright Agency of China (NCAC) are drafting procedures to ensure use of legal software with a focus on verifying software used by large enterprises including state-owned enterprises;

(k) Relevant agencies are working on a submission to the National People's Congress (NPC) by the end of June 2006, regarding China's accession to the WIPO Internet treaties;

(l) In response to the Gutierrez-Portman letter on infringements by optical disk (OD) operators, the Chinese Government has come up with a plan of action including announcements on March 27, that six OD operators, licenses have been revoked, one OD operator has been forbidden registration and seven OD operators, licenses were suspended pending internal remediation; by the end of December 2006, National Copyright Association of China (NCAC) and the MPS will conduct a nationwide campaign; (Note: VP Wu Yi also mentioned the closing of Shanghai's Xiangyang market and that products without legitimate trademarks are forbidden for sale in all of Beijing's key consumer markets, but these issues were not specifically related to the OD points. End Note.);

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(m) To further intensify protections against piracy, MII and NCAC are establishing rules mandating that all PC manufacturers pre-install legitimate software on their PCs and China is considering a requirement that all PCs sold in China must have legitimate software pre-installed;

(n) The State Council is compiling a list of all IP protection actions.

16. (C) China is willing and ready to work to further the protection of IP, but improving the IPR system in China will not occur overnight and China's IPR issues are related to the development level of China, cautioned VP Wu Yi. IPR protection is a worldwide issue, she added, and even the United States faces challenges. For example, she wondered how pirated copies of the &For Oscar Review Only8 version of the movie Brokeback Mountain could be found in China. Over one hundred Chinese movies and musical CDs are available in pirated form in the United States, claimed Wu Yi.

(SBU) JCCT Buying Missions

17. (SBU) Wu Yi highlighted that 150 Chinese entrepreneurs planned to join the JCCT delegation to conduct trade and investment promotion activities in the United States. The delegation plans to visit nine states, starting in Hawaii and then traveling to California, Tennessee, Georgia, Illinois, South Carolina, New York, Minnesota, Washington and the District of Columbia. Contract signings in such areas as soybean and cotton, software, appliances, automobiles and

aircraft would total an estimated USD13-15 billion, she said.

The Chinese Chambers of Commerce and Business Associations also plan thirty trade and investment events this year, aimed at assisting U.S. small and medium sized enterprises to promote their technology, products and services in China.

(SBU) Export Controls and Visas

¶8. (SBU) VP Wu Yi offered to debate, at another time, the U.S. claim that its products subject to export controls account for less than one percent of the total trade between China and the United States. Similarly, she asked for an opportunity to further discuss issues related to visa application problems for Chinese business travelers.

(U) In Conclusion

¶9. (C) "What you hear at the JCCT will satisfy you," said VP Wu Yi in closing. China has a longer outline of planned IP actions that extends beyond this year and she promised to provide greater details at the seventeenth JCCT.

¶10. (SBU) After taking note of the Chinese side's concerns on visas and export controls, Secretary Gutierrez reiterated the need for the United States and China to have their respective teams meet to talk before the JCCT to provide needed clarity.

¶11. (U) Chinese participants at this forty-five minute meeting at the ZhongNanHai leadership compound included:

Vice Premier WU Yi
Minister of Commerce BO Xilai
Vice Foreign Minister YANG Jiechi
Ministry of Commerce (MOFCOM) Vice Minister MA Xiuhong
MOFCOM Director General for American and Oceanian Affairs HE Ning
MOFCOM Protocol Department Deputy Director General ZHOU Ping
MOFCOM U.S. Affairs Director WANG Hongbo
MOFCOM U.S. Affairs Official LIU Haiyang
MOFCOM U.S. Affairs Official XUE Dong
MOFCOM U.S. Affairs Official TAN Yuwei
MOFCOM Protocol Dept. Interpreter Ms. XIONG

¶12. (U) USG participants in this meeting were:

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Secretary of Commerce Carlos Gutierrez

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Ambassador Clark T. Randt, Jr.
Claire Buchan, Chief of Staff, Office of the Secretary of Commerce
Rod Hunter, Special Assistant to the President and NSC Senior Director for International Trade, Energy and Environment
Henry Levine, Deputy Assistant Secretary of Commerce
Craig Allen, Minister-Counselor for Commercial Affairs, U.S. Embassy
Robert Luke, Minister-Counselor for Economic Affairs, U.S. Embassy
Cheryl McQueen, Director, Office of the Chinese Economic Area, Commerce Department
Eric Madison, Trade and Investment Policy Unit Chief, Economic Section, U.S. Embassy
Ira Belkin, Trade Facilitation Office Director, Commercial Section, U.S. Embassy
James Brown, Interpreter, U.S. Embassy
RANDT